

**BUREAU OF EMPLOYMENT RELATIONS
MICHIGAN EMPLOYMENT RELATIONS COMMISSION (MERC)
Performance Measurement Report for Fiscal Year Ending 9/30/07**

Description of the Bureau/Agency:

The Michigan Employment Relations Commission (MERC), supported by the Bureau of Employment Relations, is statutorily charged with resolving labor disputes between public and private sector employers, labor organizations and employees. The Bureau and its staff achieve this mandate by conducting elections; resolving unit clarification issues; mediating collective bargaining disputes; appointing fact finders and arbitrators to resolve bargaining impasses; enforcing statutes which protect bargaining rights of public and private sector employees; fostering cooperative programs between public and private sector labor and management; and via education and training. The Commission also provides fact finding, compulsory arbitration, grievance arbitration and grievance mediation. The Bureau of Employment Relations administers the Public Employment Relations Act, the Labor Relations and Mediation Act, and the Compulsory Arbitration Act.

Vision Statement:

The vision of the Bureau of Employment Relations is to promote excellent labor-management relations.

Mission Statement:

The mission of the Bureau of Employment Relations is to provide high quality support to the Michigan Employment Relations Commission, and to foster peaceful, cooperative and effective public and private sector employer-employee relationships by neutral and timely resolution of labor disputes, application of conflict resolution processes, and education and training.

FUND SOURCE:

Federal Funds

State Restricted Funds (We used to be funded with GF/GP up until several years ago. These were replaced by Corporation and Securities fees in order due to the State's budget issues)

LEGAL BASIS:

Public Act 345 of 2006

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CUSTOMER IDENTIFICATION:

Customers - Legislature; public sector employers, labor organizations and employees, as well as to private sector employers and labor organizations; management and program staff of Labor and Economic Growth; outside vendors, and citizens of the State of Michigan

Stakeholders - Governors Office; citizens of the State of Michigan

Main Components of the Bureau:

Administration Division

The Administrative Staff formulates and implements activities that direct and manage Bureau activities.

Labor Relations Division

The Labor Relations Division (which includes Labor Representation Elections) works in conjunction with the State Office of Hearing and Administrative Rules (SOHAR) to administer the unfair labor practice and union representation election provisions of the Public Employment Relations Act and the Labor Relations and Mediation Act. These laws apply to public sector employers, labor organizations and employees, as well as to private sector employers and labor organizations and employees over which the National Labor Relations Board (NLRB) will not assert jurisdiction. This includes determination of appropriate bargaining units, ordering and conducting representation and decertification elections, and resolving issues in those elections, such as the impact of objectionable conduct and the eligibility of persons casting challenged ballots. Through the Labor Relations Division in conjunction with SOHAR, the Commission functions as an adjudicative body.

Mediation Division

The Mediation Division assists in the negotiation of collective bargaining contracts and settlement of grievances between employers, labor organizations and their employees in both the public and private sectors. Mediation is provided as a service to the parties to assist in peaceful resolution of disputes.

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Performance Data and BER/MERC Accomplishments for Fiscal Year 2007

Number of FTEs at the Bureau of Employment Relations (In 2007, 1.5 of the 21.5 FTEs were vacant for a part of the FY)	21.5
Number of unfair labor practices and/or union representation petitions processed	374
Number of union representation elections conducted	121
% of certifications of election issued within 15 days of election	92%
Number of notices of open contracts filed	2,323
Number of open contracts mediated	557
Number of Act 312 and/or Fact Finding petitions processed	153
Number of Commission decisions issued in FY 2007	112

Increased Productivity

The number of Commission decisions issued has almost doubled over the years. In **2001**, when our Bureau employed 28 FTEs, **60 Commission decisions** were issued. With only 21.5 staff in **2007**, **112 Commission decisions** were issued. A bar graph indicating the increase in the number of Commission decisions issued over the years is attached. In addition, a bar graph indicating the increase in Commission decisions issued in the last quarter of FY 2007 is attached.

Public Education Programs

An educational seminar was conducted in November 2006 for MERC's arbitrators and fact finders, describing the services of our agency and employer, union, and employee rights under the statutes we administer. This seminar was sponsored by and conducted at MSU College of Law, with a program arranged by Bureau staff.

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An additional seminar regarding retirement benefits for MERC arbitrators and fact finders was sponsored by and conducted at the Municipal Employees Retirement System (MERS) in April 2007.

Our agency continues to collaborate with its partners, who have graciously offered to present educational programs for our Bureau staff, Commissioners, and agency decision makers at a time when we are precluded from doing so due to budget constraints.

CHALLENGES

- 1. To provide statutorily-required services with our current complement of employees. 60% of our staff is eligible to retire in the next 5 years. Succession planning is becoming critical.**
 - Since the Bureau of Employment Relations was established more than 40 years ago, we have experienced a continuous reduction in the number of employees on our staff.
 - At one point in our history, we employed over 45 employees. This number has steadily declined; in 1998, BER had 28 employees. We remained at that number until the 2002 retirements, after which, we were left with 23.5.
 - After the transfer of our ALJs and one support staff to SOAHR, our current organizational chart includes 21.5 positions.
 - Significantly, 1.5 of those positions are vacant (one mediation supervisor and a half-time support staff). To compound matters, another Lansing-based mediator is expected to retire at the end of the month.
 - Our challenge will be to timely respond to requests for basic services required by statute with this continuous depletion of staff and legislative allocation.

- 2. To continue to provide statutorily-required dispute resolution services with our current or a reduced budget and to provide a quality panel of outside decision makers. We need a stable, increased funding stream in order to more efficiently meet our customer needs.**
 - We need to increase by \$150,000 the legislative appropriations allocated to the Michigan Employment Relations Commission (MERC) for Act 312 and Fact Finding and to locate a stable, increased funding stream for all of the services provided by our agency.

 - Act 312 of 1969 and Fact Finding are dispute resolution procedures provided by MERC, and both are mandated by state statutes, MCL 423.231, et seq and MCL 423.25, respectively. Act 312 provides for compulsory arbitration of unresolved

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- Contract disputes in municipal police and fire departments. Employees covered under Act 312 include municipal police officers and firefighters, as well as emergency medical personnel and emergency telephone operators employed by municipal police or fire departments. Under Act 312, if the parties are unable to reach voluntary resolution of their contract terms, a three-member arbitration panel issues an award based on criteria set forth in the statute. The award establishes the terms of the parties' collective bargaining agreement in the public safety arena.
- Fact Finding is the final impasse resolution procedure available to public sector employees other than public safety personnel. If bargaining and mediation have failed to result in a final collective bargaining agreement, either or both parties may petition for fact finding. The neutral fact finder, following a process set forth in MERC Rules, will issue a non-binding recommendation for settlement of the contractual dispute.
- Since at least 1998, the amount appropriated to our agency for Act 312 and Fact Finding has remained the same even though the daily rate paid to our neutral decision makers was increased by more than 40% - from \$450 to \$650 - in 1999.
- For more than 8 years, our neutral arbitrators and fact finders have not had an increase in their daily rate. The current per diem of \$650 is significantly below what neutrals receive for their services in the private sector which, at times, exceeds \$1,000 per day. It is essential that the daily rate be increased if we are to assure a high quality panel of decision makers.
- At this time, many neutrals handle MERC-related cases as a public service.
- Reimbursable expenses paid to our decision makers, such as hotel, food and mileage costs have increased; yet, the appropriated amount has remained the same.
- Every year but one (2001) since 1999, BER has overspent the budgeted amount for these procedures. During some years, this amount has been significantly overspent; for example, in 2006, our Bureau out-spent its budgeted amount by more than \$70,000 (\$217,984 expended). In 2003, we overspent our budgeted amount by nearly \$80,000 (\$223,432).
- Notably, many of the variables affecting the amount spent (e.g., the number of petitions filed and proceedings held) are out of our control.

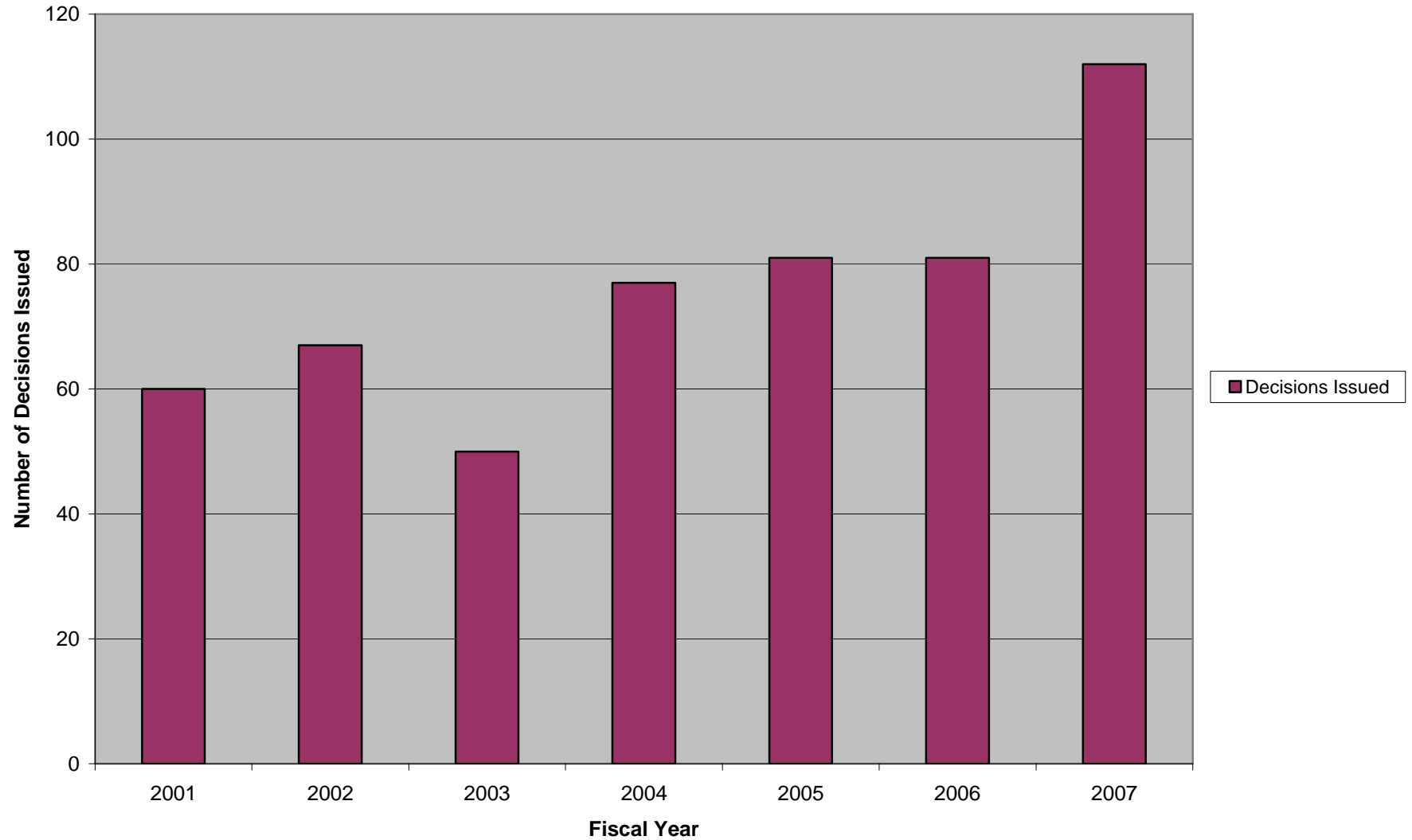
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- CIS/DLEG has been able to cover the overspending from the Executive Director program line item. In this difficult economic climate, when every agency's budget is tight, we cannot assume the availability of such funds.
- Several years ago, our agency was forced to halt fact finding cases, because we simply do not have sufficient funding.
- The real fear is that we will be forced to do the same in the coming year if our legislative appropriations are not increased in this area. This would be most unfortunate as the monetary burden to pay for fact finding would fall on municipalities and unions representing municipal employees – parties who are among the least able to shoulder these costs. Our challenge will be to continue to provide these dispute resolution services if an allocation increase is not provided.

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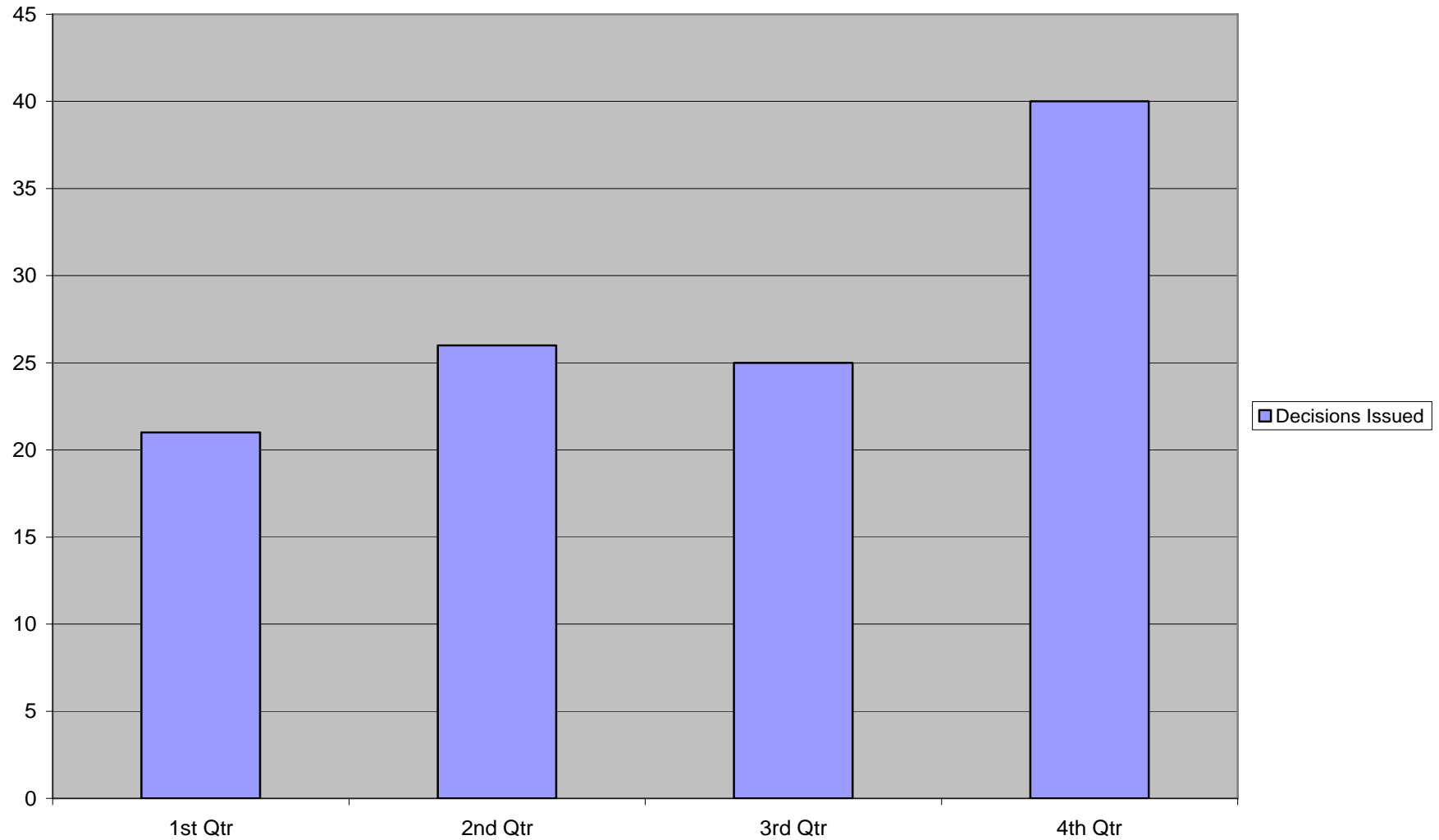
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MERC Decisions Issued Since Fiscal Year 2001



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Quarterly Comparison of Decisions Issued in Fiscal Year 2007



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MERC Decisions Issued by Type in Fiscal Year 2007

